

CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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AUTHORITY: 30 U.S.C. 815, 820 and 823.

SOURCE: 58 FR 12164, Mar. 3, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 2700.1 Scope; applicability of other rules; construction.

(a) *Scope.* This part sets forth rules applicable to proceedings before the Federal Mine Safety and Health Review Commission and its Administrative Law Judges.

(b) *Applicability of other rules.* On any procedural question not regulated by the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (“the Act”), these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure.

(c) *Construction.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings, and to encourage the participation of miners and their representatives. Wherever the masculine gender is used in these rules, the feminine gender is also implied.

§ 2700.2 Definitions.

For purposes of this part, the definitions contained in section 3 of the Act, 30 U.S.C. 802, apply.

§ 2700.3 Who may practice.

(a) *Attorneys.* Attorneys admitted to practice before the highest court of any State, Territory, District, Commonwealth or possession of the United States are permitted to practice before the Commission.

(b) *Other persons.* A person who is not authorized to practice before the Commission as an attorney under paragraph (a) of this section may practice before the Commission as a representative of a party if he is:

- (1) A party;
- (2) A representative of miners;
- (3) An owner, partner, officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, other business entity, or a political subdivision; or

(4) Any other person with the permission of the presiding judge or the Commission.

(c) *Entry of appearance.* A representative of a party shall enter an appearance in a proceeding under the Act or these procedural rules by signing the first document filed on behalf of the party with the Commission or Judge; filing a written entry of appearance with the Commission or Judge; or, if the Commission or Judge permits, by orally entering an appearance in open hearing.

(d) *Withdrawal of appearance.* Any representative of a party desiring to withdraw his appearance shall file a motion with the Commission or Judge. The motion to withdraw may, in the discretion of the Commission or Judge, be denied where it is necessary to avoid undue delay or prejudice to the rights of a party.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48712, Sept. 8, 1999]

§ 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding instituted by the Secretary under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), the complainant on whose behalf the Secretary has filed the complaint is a party and may present additional evidence on his own behalf. A miner, applicant for employment, or representative of a miner who has filed a complaint with the Commission under section 105(c)(3) or 111 of the Act, 30 U.S.C. 815(c)(3) and 821, and an affected miner or his representative who has become a party in accordance with paragraph (b) of this section, are parties.

(b) *Intervention—(1) Intervention by affected miners and their representatives.* Before a case has been assigned to a Judge, affected miners or their representatives shall be permitted to intervene upon filing a written notice of intervention with the Executive Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. If the case has been assigned to a Judge, the notice of intervention shall be filed with the Judge. The Commission or the Judge shall mail forthwith a copy of the notice to all parties.